

**UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND**

DAVID CURTIS ,

Plaintiff,

v.

EMBRACE HOME LOANS, INC. and  
ROUNDPOINT MORTGAGE SERVICING  
CORPORATION,

Defendants.

C.A. No. 18-cv-57

**NOTICE OF REMOVAL**

To: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

Pursuant to 28 U.S.C. §§ 1331, 1441, 1446, and DRI LR 81, Defendants, Embrace Home Loans, Inc. ("Embrace") and Roundpoint Mortgage Servicing Corporation ("Roundpoint") (collectively, "Defendants"), hereby file this Notice of Removal from the Kent County Superior Court to the United States District Court for the District of Rhode Island. As grounds for removal, Defendants state as follows:

1. On January 8, 2018, Plaintiff, David Curtis ("Plaintiff"), commenced this action with a Petition for the Appointment of a Receiver and for Injunctive Relief filed in the Kent County Superior Court against the then Respondent, One Lot of Real Estate Referenced as Plat: 29 Lot 129 of West Warwick Tax Assessor Located at 105 Quaker Drive, West Warwick, Rhode

Island (the "Property"), under Civil Action No. KC 18-0018. An Amended Complaint substituting the Property for the current Defendants was filed on February 5, 2018.<sup>1</sup>

2. Removal of this action to the United States District Court for the District of Rhode Island is permissible pursuant 28 U.S.C. §§ 1331 and 1441(a) because the Amended Complaint claims violations of federal statutes and regulations, including, *inter alia*, the Truth in Lending Act, 15 U.S.C. §§ 1601 *et seq.*, the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. §§ 2601 *et seq.*, and the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010), as well as certain regulations promulgated by the U.S. Department of Housing and Urban Development (24 C.F.R. §§ 203.501, 203.604). This Court has supplemental jurisdiction over Plaintiff's state-law claims under 28 U.S.C. § 1367(a) because these claims are so related to the claims in the action within the Court's original jurisdiction that they form part of the same case or controversy. *See Godin v. Schencks*, 629 F.3d 79, 83 (1st. Cir. 2010).

3. Removal of this action is timely under 28 U.S.C. § 1446(b) as neither Roundpoint nor Embrace has yet to be served with process to trigger the statutory period for removal. *See Novak v. Bank of N.Y. Mellon Trust Co., NA.*, 783 F.3d 910, 911 (1st Cir. 2015) ("[W]e conclude that service is generally not a prerequisite for removal and that a defendant may remove a state-court action to federal court any time after the lawsuit is filed but before the statutorily-defined period for removal ends.").

4. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served on Defendants are attached hereto as **Exhibit A**.

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<sup>1</sup> Plaintiff has not yet served the Amended Complaint on either Roundpoint or Embrace. Previously, the Petition only listed Roundpoint and Embrace as secured creditors, whereas the Amended Complaint now names Roundpoint and Embrace as Defendants and specific parties to this action.

5. Roundpoint will provide written notice of the filing of this Notice of Removal as required by 28 U.S.C. § 1446(d), including filing a certified copy of this Notice of Removal with the clerk of the Kent County Superior Court.

WHEREFORE, this action should be removed to the United States District Court for the District of Rhode Island.

Respectfully submitted,

EMBRACE HOME LOANS, INC. and  
ROUNDPOINT MORTGAGE SERVICING  
CORPORATION,

By Their Attorneys,

/s/ Ethan Z. Tieger

Samuel C. Bodurtha, Bar No. 7075  
Ethan Z. Tieger, Bar No. 9308  
HINSHAW & CULBERTSON LLP  
321 South Main Street  
Suite 301  
Providence, RI 02903  
Telephone: (401) 751-0842  
Facsimile: (401) 751-0072  
[sbodurtha@hinshawlaw.com](mailto:sbodurtha@hinshawlaw.com)  
[etieger@hinshawlaw.com](mailto:etieger@hinshawlaw.com)

Dated: February 8, 2018

**CERTIFICATE OF SERVICE**

I, Ethan Z. Tieger, hereby certify that the documents filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as nonregistered participants on February 8, 2018.

/s/ Ethan Z. Tieger

Ethan Z. Tieger